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AUTHOR Kinney, John E.
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ABSTRACT

Although we have accumulated much factual data on environmental conditions, interrelationships, and consequences of actions, our decisions are based on political expediency, pressure, mob action, and emotion. Believing that decisions regarding the environment and pollution control are not technical but socioeconomic, crusaders have refused guidance by competent technical persons. Many erroneously believe that environmental problems can be reduced simply to laws, regulations, and prohibitions. Another problem is in our traditional approach to problems, which tends to ignore or lose sight of basic objectives. Proof of this is gained by an analysis of any of the environmental programs. There is a lack of definition of the terms ecology, environment, and pollution; legislative and administrative units have defined these in whatever ways they choose. We have no planned environment--rather it is the result of many bureaucratic programs coupled with private interest activities. Pollution can be corrected once there is a definition and the money appropriated to competent persons. True controls are population distribution, availability of food from land and water, and availability of minerals from land, water, and energy. These need competent, extensive appraisal. (Author/JLB)

"EVERYMAN" AND HIS ENVIRONMENT

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by

John E. Kinney*

How many behavioral scientists do you know who demonstrate a compulsion to normalize man's activities, and then institute remedial programs to correct the failure of most of us to respond to what they determine that norm should be? Have you noted this same tendency in their approach towards environmental analysis? and more particularly towards pollution abatement?

They may assume their activity is destined to save the ecology but the concept of normalizing destroys the peculiarities and particularities, the variations and variety essential to identifying that ecology. Also, the concept of normalizing encourages some to readily accept without question as true the broadest generalizations of others. Using these as a platform they proceed to extend their particular specialty into conjecture in other fields.

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* Sanitary Engineering Consultant, 1910 Cambridge Road, Ann Arbor, Michigan 48104.

The resultant pandemonium indicates we may be more educated but are not more intelligent than our ancestors. In fact, our hysteria over the environment suggests we have regressed, for although we have accumulated much factual data on conditions, interrelationships and consequences of actions, our decisions are based on political expediency, pressure, mob action and emotion.

Insofar as this aspect of our life is concerned, our vaunted educational system has been a colossal flop. Despite the theory that education develops a questioning attitude, so many, so very many individuals willingly accept as true assertions such as that Lake Erie is a dead lake without asking for proof. Even worse, they predicate causes and programs on such an assertion and lose credibility when the error is exposed.

Carrying the banner that decisions in the environment and in pollution control are not technical but socio-economic, these crusaders have refused to be guided by competent technical persons. And as usual when there is a limited albeit legitimate basis for participation, assumption of full authority brings eventual corruption.

This is particularly so in issues which affect or are affected by the physical environment. Nature permits no manipulation with natural laws nor does it permit competition by man made laws. Man in solemn session can pass laws, each originally designed to handle a special problem in which a desired solution was attained but then the laws demonstrate an incompatibility when considered jointly in terms of a third problem. Man made courts have capacity to decide which controls.

Not so in nature. Our courts, seemingly oblivious to this, are presently engaging in environmental matters in which they really have no competency and too often base decisions on precedent, the normal course of thought for the legal mind. Yet the differences in nature are such that consequences of the same action in different locations can be dramatically different. The act which results in a finding of damage in one instance could be shown to be a preferable course in environmental betterment in another, if not precluded by precedent.

The legal mind, with few exceptions, has not seen this. Nor have many crusading socio-economic trained individuals. Both groups erroneously believe environmental problems can be reduced simply to laws, regulations and prohibitions, and even worse, believe a well intentioned political employee or appointee can effectively implement such laws and regulations.

This is one basic error. Another is our traditional approach to most problems. The team assembled to face the issue divides into two groups. On one side of the table the question is "what shall be done?". On the other side of the table the question is "who shall do it?". Neither asks "why?".

Some nebulous generalization or platitude is offered as an objective and then ignored in both plan of implementation and table of organization. Both so effectively fragment the avowed objective, an ultimate solution is impossible. Normally such a program should easily self-destruct, but an additional ingredient -- money for grants -- promotes self-perpetuation.

Proof of this is gained by analysis of any of the environmental programs. The federal pollution control program is a good example. The initial legislation was in 1948. Modified and enlarged many times since, the law has yet to define pollution. A multibillion dollar program which now affects our way of life by limiting use of natural resources as well as by pinching our pocketbooks has no definition of the objective. The House Public Works Committee Report No. 2021 contains the only definition in the legislative history, but the federal agency has not seen fit to agree with it.

This is a principal reason why the federal pollution control program is a failure. Since it is always the failures which make the noise (the successful business, the happy marriage, the competent program don't make the news, only the failures), there is concerted propaganda by the agency demanding new authority, more money, reorganization and other ploys to divert attention from the failure.

However, even though the nebulous objective means nothing since no one can tell when it is achieved, it nevertheless means anything and everything to everyone. Decisions then reduce to mob scenes -- promise the people what they want. It is more than coincidental that pollution and politics start with the same letters.

Thus when public hearings are held to adopt standards of quality, which one might assume would reduce this amorphous concept of pollution to specifics, emotions and demagogues ride the main. Facts are ignored. The needs of the people in terms of what truly constitutes their environment lose to the more vocal self interest crusaders -- individuals who have neither a competency in the appraisal of the situation nor a responsibility in the implementation.

Ignorance exceeds even concern among the attendees. Fear and cupidity hold forth but are used in a most amazing way. The assertion is accepted as fact; the allegation as truth; the promise as reality; adverse consequence as non-existent. For a theoretically enlightened, educated people the record is a damning indictment.

Why is this our way of life? Unless there is an answer and a correction, any suggestion our resources will be effectively utilized is a barren hope. So is the idea we can design and achieve a desirable environment. Thus the inventories of natural resources or pollution problems are of academic interest until the institutions for utilizing human resources are reoriented.

In my opinion the sociologist can take a large share of the credit for this state of affairs. Although he isn't alone, his has been the path-finder role which encouraged change in this nation from a country which had placed the onus on the individual to accept a personal responsibility in achieving the objectives detailed in the Preamble to our Constitution. When Frederic Bastiat (1849 1894) compared ours to the French constitution preamble he decried the illusion the latter offered his people, that France, an abstraction, had been created to raise the French, or realities, to an ever increasing degree of morality, enlightenment and well being. A hundred years later another Frenchman, de Jouvenel, bemoaned the manner in which the American bureaucracy had become so great that the traditional check on the power of the administration by the judiciary no longer existed.

His concern was related to the manner in which the people surrender authority and thus promote the climate for war. But, de Jouvenel's

analysis of people's attitudes is equally valid in the appraisal of decision making on environmental issues. The surrender of authority to the bureaucrat is no guarantee of a life in a quality environment. In fact, as the Russians learned, the antithesis is true. Congressional delegation and interagency warfare in our developing totalitarian democracy are vesting authority in individuals who stand in physical need of certitudes, who must reduce life to a uniformity of regulations even if such regulations are incompatible with morality and nature, who must gage their actions in terms of the mission of the particular agency rather than in terms of public benefit.

Illustrative of the effect of this is the status of our pollution control program. There is neither guidance nor objective. No entity -- municipality, industry or agriculture -- can plan a course of action with any reference to certainty; all are subject to arbitrariness. At present there is no one to whom an industrial manager or government official can go to determine specifically what standards he must meet, to determine specifically whether treatment facilities once constructed will be acceptable for even a reasonable period of time or even acceptable to other governmental agencies.

The control of pollution abatement affects all natural resource utilization and development. Moreover, the program is quite comparable to the manner controls are exerted by other federal agencies directly over individual resources. Consider then some specifics to support the charge that there is no effective guidance in pollution control:

-- the 1965 Water Quality Act gave the States a mandate to adopt water quality criteria and a time schedule to meet those objectives. However, the standards were to be reviewed by the federal agency and that agency four years later is still withholding approval on some standards after forcing changes on many others. The effect is a delay in programs in some areas because objectives are uncertain and a delay in others areas because states have standards which are unattainable and thus unenforceable.

-- The federal agency, now EPA, at times ignores these standards and competes with the States by moving against cities and industries under "informal" 180 day notice hearings, even when the city or industry is constructing under state standards, with the excuse there is non-compliance with a federal conference schedule. The "hearing" causes the program and time schedule to be changed and achieves more question on which agency is responsible and responsive to abating pollution than on progress.

-- also, EPA has been recommending direct Justice Department action in Federal Court against specific companies rather than promote the state involvement. This eventually results in a program differing somewhat from that required by the State and already approved by EPA but, more importantly, destroys the state initiative and responsibility.

-- or, Justice Department, on its own, at the instigation of a politician, a conservation group, a newspaper or Corps of

Engineers, notifies a company of a civil indictment under the 1899 Rivers and Harbors Act on the basis of a discharge of cyanides, phenols or heavy metals without a permit. There usually is no date proving the particular constituent in the discharge actually caused damage. The Justice Department rationalizes that if an element is by nature toxic, the judge will know it is toxic, and proof is not needed. Or if data is later required, it can be collected afterwards. The objective is a consent decree and results in a program different from that pursued by the company under state standards and orders. Justice Department ignores the state standard which limits any and all toxic substances and says in effect that since the state didn't set a specific standard for cyanides or phenols, there is no standard. The action usually is against a large company which will concede to either minimize adverse publicity or be willing to get a court order which should finalize what has to be done and prevent further harassment. The result is bad law, not environmental protection. The pattern can be described as one of discrimination, for the priority is not on basis of polluting effect but on size and location of company. The agency wants precedent to compel closures of industries under the 1899 Act. The disruptive effect on State programs is obvious.

-- meanwhile, the Corps of Engineers has been ordained by the Administration to issue new scope permits under the 1899 Act,

and since it has no sensible objective or limitations if navigation protection is really not the purpose of the permit, the agency's lack of guidelines allows no intelligent understanding of requirements. Companies are now refusing to construct under state orders until the federal requirements are established.

-- and finally, citizen action suits bypass all the administrative machinery, and new legislation is giving courts the authority to define pollution and what must be done about it.

This mess suggests the courts will undoubtedly be involved. Although the cases may be limited to specific local issues, the decisions and dicta can be expected to be spread willy-nilly across the land. Any errors on which the man made laws are premised or which are used to justify the decisions will eventually demand a penalty, for regardless of the sincerity of the proponents of an action, nature judges only the deed; the wish is immaterial.

Nature is an entity and any effort to codify the parts, to consider a part as an entity which is to be controlled by rules, regulations and laws is doomed, for the parts are so interrelated they are not separable. Joint and several applies not to nature.

Nor does it apply to the environmental concepts of man. Environment is the summation of what exists; the social, cultural, economic and physical aspects of our being. It thus continues to exist because of or even despite the efforts of man. It can be modified or preserved to a degree but it cannot be destroyed.

Environment has two characteristics -- ecology and economy. Both have the same Greek root -- eco, for family or household. Ecology deals with the interrelationship of the members of the household. It is not limited to the biological but includes all interrelationships. Economics deals with the efficiency with which the household supplies the needs of the members. It is not limited to cost-benefit nor to profit-loss.

Just as ecology is not synonomous with environment, neither is pollution. But too many think so. Pollution, like sickness, is a condition such that it impairs the use of a resource. It is anything in excess. Unless there is an impairment, an actual impairment, there is no pollution. The legal mind has ignored this and has decreed it to be whatever the legislative or administrative body says it is. These are our modern Alices in Wonderland. -- "When I use a word, it means just what I choose it to mean, neither more nor less."

This works to an extent in promoting jobs for inspectors and fines for violators, but because it fragments the environment, there is an inevitable consequence. The quest for absolute purity atrophies the air or water and the desuetude though apparently innocuous places stresses on other aspects of the environment. The stresses may be physical such as the removal of matter from water becomes a land disposal concern or the cooling of thermal discharges creates a humidity, icing and fogging problem or the incineration of liquid wastes becomes a contender for scarce low sulfur gas or oil; or they can be social, for excessive expenditures for so-called purity divert funds from other environmental blights such as ghettos, crime on the streets, malnutrition and educational needs; or

they can be economic by forcing the closure of marginal industries and thus increasing unemployment and causing an increase in social problems as well as the costs attendant thereto.

We have no planned environment. There is no forum at which agreement can be reached on the environment desired. Rather our environment is the resultant of the many bureaucratic programs coupled with private interest activities. Since each program and activity considers its mission or objective as controlling, there is a monumental stress, not domestic tranquility. The forces in this environmental stress are many and competing. When any given aspect is overworked or overprotected, others feel the impact.

Unfortunately, there are many external pressures affecting the uses of the resources in the realm of environmental decisions. One is the clamor to drop the program of defining and achieving water and air quality standards as required by present law, and substitute a program requiring installation of the latest state of the art in waste treatment. Obviously, the requirement can mean excessive treatment in some instances and inadequate in others. But uniformity is achieved. Uniformity, the refuge of the lazy mind, is progress to the mediocre. Orders can be issued without thought or fear of criticism if there are unanticipated consequences.

Another pressure is generated by the desperate drive of the Nixon Administration for new sources of revenue. Lack of encouragement

for a tax on value added prompted the proposal for a tax on the use of the air and water resources as public goods used for private gain. To this is attached a punitive tax on pollutants as a palative to sell it to the public as an environmental improvement. There was lack of support in the countries of Western Europe and Japan when they were asked to adopt the same technique. They had the foresight to realize it would disrupt internal economy by levying a disproportionate cost on the competing industries using more air and water. They could also see how this extra cost of production would be disadvantageous in dealing with communist countries unless there was further government subsidy.

That this approach to revenue would force closure of marginal industries is obvious. What the effect would be on the local tax duplicate and on the people thrown out of work can be imagined. But these aspects of environmental quality are ignored in the desperate effort for funds. Also ignored is the fact that the quest for clean air and water -- the cloak under which this offer is hidden -- can be forgotten.

Lack of foreign enthusiasm for this act prompted the Administration to promote precedent anyhow by a tax on sulfur and lead. Close attention to the propaganda on these efforts discloses the fact that even when the standards are met, the tax will continue on the thesis that the residual sulfur and lead in the atmosphere might be harmful and a tax, if high enough, would tend to discourage its use.

If there were even a reasonable basis for believing sulfur and lead now cause impairment to health, they should be limited or banned --

and would be if the government accepted its responsibility to the citizenry. But if there is no reasonable basis to believe harm to health, there should be no fraudulent advertising promising health benefits from such a tax.

If the Administration wants money and wants to employ a tax on non-desirable activities such as discharges of lead and sulfur, then why shouldn't the Administration extend the principle to all non-desirable activities. For instance, homicide is a non-desirable activity (and it also creates more cases of fatal lead poisoning than all the gasoline fumes and industrial discharges together), and a graduated tax increasing according to the degree up to first degree murder would certainly be a possible consideration. If you pay a tax, the economist suggests the discharge of lead will not cause pollution -- regardless of standards. Why not use the same argument on homicide or burglary or vandalism? It is equally fallacious, if there is a desired quality of life as an objective.

The income from the liquor tax is the best assurance the Volstead Act won't be repeated. But now we run a parallel in banning other so-called environmental hazards and then allow for the continuance if a tax is paid.

Additional pressures exist -- public interest law firms for one; another is legislative voting on environmental issues such as DDT, SST, Alaskan pipe line, phosphates in detergent, temperature standards and waste discharge requirements. Every time we legislate an answer to a technical problem, we create at least one greater problem. But the legislator ignores this. All he can see is the vote potential if he can claim his support for a bill saved the environment.

Thus, it is easy to see that a common denominator in all of these activities is the utilization of a public opinion reflecting belief rather than knowledge. Another factor common to all is that the attention is towards the symptoms rather than the cause. However, the suggested remedies do provide very real constraints over futute choices in environmental design. And therein lies the gravest danger.

Pollution, despite the attention paid it, is not a significant influence on our future. It can be corrected once there is a definition and the money appropriated to persons who are competent in the field.

Rather the true controls, the items which will control our future environment, are population distribution, availability of food from land and water, availability of minerals from land and water and energy. These need competent, extensive appraisal. If left to the vox populi for policy and decision, the results can be catastrophic.

Nor will the catastrophy be limited to the national welfare. That there are international complications and consequences is much chatted about today but again the hard data are absent in many of these discourses. For example, if one wants to see gross pollution and a very poor quality of life, he should visit the underdeveloped, unindustrialized countries where cholera and dysentery laden water is the staff of life. Or he could visit countries like Japan where the controlled growth rate did not abate pollution. Or he could visit the European countries where pollution control is a federally subsidized activity when its cost is a factor in meeting communist country competition. The United States

citizen at least has a health protection in the purity of his water supply. But the extent to which this country goes in striving for "purity" will cause diseconomies which will be felt at home and abroad. And it will be evident in social as well as economic and physical effects.

Hopefully, the voice of reason is again being heard. The public forums on pollution are no longer crowded as they were a year ago. Some media publishers have realized how they were party to mass duplicity and see the precedent eventually enveloping them. They now want a check on the accuracy of allegations. School programs embarked on ecology only to learn the recommended reading highlighted the scares but had no guidance for action by individual or community. Teachers who had become excited over the printed reports by the prophets of doom and gloom reread these prophecies in calmer moments and learned that the words "may" and "might" prevailed, not facts. When they realized horses may fly, the dawn arrived. Common sense prevailed.

From apathy to panic and now a return to apathy -- our normal course of events. But meanwhile the politicians and the bureaucrats are still out to save the ecology or the environment or something, and their actions will cause continuing after effects. Many of these enthusiasts are truly enviromaniacs, for they accept no responsibility for the consequences of their actions.

On the brighter side, the Department of Interior has released a circular defining a mechanism for the quantitative determination of possible effects of an action on the physical aspects of the environment. It also

permits a quantitative appraisal of environmental impact of alternative courses of action. The methodology requires the proposer of an action to consider all potential impacts on the environment by offering a check list as a guide to such possible effects, and then shows how to estimate the potential impact of each facet of the operation on each aspect of the environment. This then permits a determination of the importance of the total impact on the environment and the possibilities of limiting that impact, if warranted.

No longer will concerns over activities which can adversely affect the physical environment have to be argued in generalizations. No longer will restrictions or limitations have to be so broad as to be prohibitive.

The effectiveness of this appraisal depends on the competency and objectivity of the reviewing agency. The methodology was devised by individuals in the U.S. Geological Survey who are true environmentalists and representative of an agency which has no demonstrable bias other than truth. No other governmental agency -- and that includes particularly the Corps of Engineers and the Environmental Protection Agency -- has either the objectivity or the competency to appraise the total physical environment. The Council on Environmental Quality, which was supposed to guide environmental impact reporting, showed that Congressional delegation of responsibility isn't the total answer, for CEQ did not come up with any direction. However, by its endorsement, CEQ has recognized the merits of this proposal.

There is no reason why a similar matrix approach would not permit a quantitative impact analysis of public health factors and social factors.

But insofar as the value of this device is concerned with our physical resources -- land, air, water, minerals -- the essence of success lies in competency and objectivity. There is then an obligation to maintain a separate fact-finding and interpretive agency apart from policing and constructing. This could and should be in the proposed Department of Natural Resources as recommended in the reorganization of the federal government. Meanwhile, only the Geological Survey has the essential attributes for coordination and appraisal.

The alternative to an independent appraisal agency is a police control agency and that in turn means control over our economic and social development. If the policing and constructing interests -- the EPA and Corps of Engineers -- were to be consolidated and if this entity could then assume control over collection and interpretation of data and over research, there would be a virtual dictatorship within one independent agency.

In fact, EPA is now out to achieve just such a setup. EPA officials are making a concerted drive to become the superagency by seeking to absorb activities from the several departments and by seeking legislation to take over the civilian functions of the Corps of Engineers. The agency is also freely interpreting the law to suit its convenience but is seeking additional legislation to legalize the interpretation.

Their approach would result in massive duplication of effort, for it is doubtful they will get all the agencies they seek. The duplication of

costs in monitoring, laboratories and research will mean a large wastage of money. I doubt the intention of Congress in setting up EPA was to promote duplication and wastage of funds but rather Congress expected EPA to utilize existing capabilities.

Actually, if EPA were a competent force with defined objectives, it could utilize data from other agencies and know that its interpretation would be supported by others who would have access to the data. Even worse, EPA's demonstrated willingness to date to deliberately misinterpret data and to draw conclusions unable to be supported in court when the data were in evidence permits only one conclusion if EPA ever gets the dictatorial authority it seeks.

The crusaders, and this includes members of Congress, who are enamored with the idea of assigning broad powers to EPA to "expedite polution control" would then learn as de Jouvenel warned, that they had surrendered all liberty and all dignity. Certainly these too are resources of maximum value and importance. Quality environment is impossible without liberty and dignity.

Moreover, an educational system which doesn't incorporate the concept of personal dignity and acceptance of individual responsibility can neither define nor inculcate the attributes of a desirable environmental quality. Attaining and maintaining a desirable environment require an attitude rather than regulation alone. The destiny of our physical resources thus continues to be at the mercy of our human resources.

If, however, environment is considered in its totality and both the ecology and economy are appraised in their fullest and in such a manner

that each activity has a plane of reference, the interrelationships of the specialties can be recognized and the consequences of alternative courses of action anticipated. Only by considering the environment as an entity can we reach agreement on the kind of world we want and devise programs to attain it. Only by considering the environment as an entity can we assess the relevance of our educational programs. Only by considering the environment as a totality can we define objectives and agree on priorities. Yet, only by recognizing the variations in nature and needs of people can we truly consider both the ecology and economy.

But doing this requires understanding and that in turn challenges the behavioral scientists for our institutional mechanisms have not kept pace with our technological advances -- nor, for that matter, with the needs of people.